

1 **Rule 83. Vexatious litigants.**

2 **(a) Definitions.**

3 (1) The court may find a person to be a "vexatious litigant" if the person, with or
4 without legal representation, including an attorney acting pro se, ~~without legal~~
5 ~~representation~~, does any of the following:

6 (A) In the immediately preceding seven years, the person has filed at least five
7 claims for relief, other than small claims actions, that have been finally
8 determined against the person, and the person does not have within that time at
9 least two claims, other than small claims actions, that have been finally
10 determined in that person's favor.

11 (B) After a claim for relief or an issue of fact or law in the claim has been finally
12 determined, the person two or more additional times re-litigates or attempts to
13 re-litigate the claim, the issue of fact or law, or the validity of the determination
14 against the same party in whose favor the claim or issue was determined.

15 (C) In any action, the person three or more times does any one or any
16 combination of the following:

17 (i) files unmeritorious pleadings or other papers,

18 (ii) files pleadings or other papers that contain redundant, immaterial,
19 impertinent or scandalous matter,

20 (iii) conducts unnecessary discovery or discovery that is not proportional to
21 what is at stake in the litigation, or

22 (iv) engages in tactics that are frivolous or solely for the purpose of
23 harassment or delay.

24 (D) The person purports to represent or to use the procedures of a court other
25 than a court of the United States, a court created by the Constitution of the
26 United States or by Congress under the authority of the Constitution of the

27 United States, a tribal court recognized by the United States, a court created by a
28 state or territory of the United States, or a court created by a foreign nation
29 recognized by the United States.

30 (2) “Claim” and “claim for relief” mean a petition, complaint, counterclaim, cross
31 claim or third-party complaint.

32 **(b) Vexatious litigant orders.** The court may, on its own motion or on the motion of any
33 party, enter an order requiring a vexatious litigant to:

34 (1) furnish security to assure payment of the moving party’s reasonable expenses,
35 costs and, if authorized, attorney fees incurred in a pending action;

36 (2) obtain legal counsel before proceeding in a pending action;

37 (3) obtain legal counsel before filing any future claim for relief;

38 (4) abide by a prefiling order requiring the vexatious litigant to obtain leave of the
39 court before filing any paper, pleading, or motion in a pending action;

40 (5) abide by a prefiling order requiring the vexatious litigant to obtain leave of the
41 court before filing any future claim for relief in any court; or

42 (6) take any other action reasonably necessary to curb the vexatious litigant’s
43 abusive conduct.

44 **(c) Necessary findings and security.**

45 (1) Before entering an order under subparagraph (b), the court must find by clear
46 and convincing evidence that:

47 (A) the party subject to the order is a vexatious litigant; and

48 (B) there is no reasonable probability that the vexatious litigant will prevail on
49 the claim.

50 (2) A preliminary finding that there is no reasonable probability that the vexatious
51 litigant will prevail is not a decision on the ultimate merits of the vexatious litigant's
52 claim.

53 (3) The court shall identify the amount of the security and the time within which it is
54 to be furnished. If the security is not furnished as ordered, the court shall dismiss the
55 vexatious litigant's claim with prejudice.

56 **(d) Prefiling orders in a pending action.**

57 (1) If a vexatious litigant is subject to a prefiling order in a pending action requiring
58 leave of the court to file any paper, pleading, or motion, the vexatious litigant shall
59 submit any proposed paper, pleading, or motion to the judge assigned to the case
60 and must:

61 (A) demonstrate that the paper, pleading, or motion is based on a good faith
62 dispute of the facts;

63 (B) demonstrate that the paper, pleading, or motion is warranted under existing
64 law or a good faith argument for the extension, modification, or reversal of
65 existing law;

66 (C) include an oath, affirmation or declaration under criminal penalty that the
67 proposed paper, pleading or motion is not filed for the purpose of harassment or
68 delay and contains no redundant, immaterial, impertinent or scandalous matter;

69 (2) A prefiling order in a pending action shall be effective until a final determination
70 of the action on appeal, unless otherwise ordered by the court.

71 (3) After a prefiling order has been effective in a pending action for one year, the
72 person subject to the prefiling order may move to have the order vacated. The
73 motion shall be decided by the judge to whom the pending action is assigned. In
74 granting the motion, the judge may impose any other vexatious litigant orders
75 permitted in paragraph (b).

76 (4) All papers, pleadings, and motions filed by a vexatious litigant subject to
77 a prefiling order under this paragraph (d) shall include a judicial order authorizing
78 the filing and any required security. If the order or security is not included, the clerk
79 or court shall reject the paper, pleading, or motion.

80 **(e) Prefiling orders as to future claims.**

81 (1) A vexatious litigant subject to a prefiling order restricting the filing of future
82 claims shall, before filing, obtain an order authorizing the vexatious litigant to file
83 the claim. The presiding judge of the judicial district in which the claim is to be filed,
84 in consultation with the judge who entered the vexatious litigant order, shall decide
85 the application. In granting an application, the presiding judge may impose in the
86 pending action any of the vexatious litigant orders permitted under paragraph (b).

87 (2) To obtain an order under paragraph (e)(1), the vexatious litigant's application
88 must:

89 (A) demonstrate that the claim is based on a good faith dispute of the facts;

90 (B) demonstrate that the claim is warranted under existing law or a good faith
91 argument for the extension, modification, or reversal of existing law;

92 (C) include an oath, affirmation, or declaration under criminal penalty that the
93 proposed claim is not filed for the purpose of harassment or delay and contains
94 no redundant, immaterial, impertinent or scandalous matter;

95 (D) include a copy of the proposed petition, complaint, counterclaim, cross-
96 claim, or third party complaint; and

97 (E) include the court name and case number of all claims that the applicant has
98 filed against each party within the preceding seven years and the disposition of
99 each claim.

100 (3) A prefiling order limiting the filing of future claims is effective indefinitely unless
101 the court orders a shorter period.

102 (4) After five years a person subject to a pre-filing order limiting the filing of future
103 claims may file a motion to vacate the order. The motion shall be filed in the same
104 judicial district from which the order entered and be decided by the presiding judge
105 of that district.

106 (5) A claim filed by a vexatious litigant subject to a pre-filing order under this
107 paragraph (e) shall include an order authorizing the filing and any required security.
108 If the order or security is not included, the clerk of court shall reject the filing.

109 **(f) Notice of vexatious litigant orders.**

110 (1) The clerks of court shall notify the Administrative Office of the Courts that a pre-
111 filing order has been entered or vacated.

112 (2) The Administrative Office of the Courts shall disseminate to the clerks of court a
113 list of vexatious litigants subject to a pre-filing order.

114 **(g) Statute of limitations or time for filing tolled.** Any applicable statute of limitations
115 or time in which the person is required to take any action is tolled until 7 days after
116 notice of the decision on the motion or application for authorization to file.

117 **(h) Contempt sanctions.** Disobedience by a vexatious litigant of a pre-filing order may
118 be punished as contempt of court.

119 **(i) Other authority.** This rule does not affect the authority of the court under other
120 statutes and rules or the inherent authority of the court.

121 **(j) Applicability of vexatious litigant order to other courts.** After a court has issued a
122 vexatious litigant order, any other court may rely upon that court's findings and order
123 its own restrictions against the litigant as provided in paragraph (b).

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